IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Hanuman Singh. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 742/2004
against the order dated 5-12-2003 passed
by the Additional Chief Judicial Magistrate,
Bilara, district Jodhpur.

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Date of Order: August 17, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Paramveer Singh, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Vineet Kumar Mathur, for non-petitioner No.2.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 5-12-2003 passed by the Additional Chief Judicial Magistrate, Bilara, district Jodhpur (for short, "the trial Court" hereinafter) taking cognizance of the offence under Section 353 IPC and issuing process against the petitioner.

I have heard learned counsel for the parties. Carefully gone through the impugned order as also the material available on record.

The order taking cognizance is of the year 2003.

There is no interim stay order. By now the trial has proceeded.

Even on merit, there is ample material to proceed against the petitioner for the offence under Section 353 IPC. The allegation against the petitioner is that while non-petitioner No.2 Jai Kishan, the then Mining Engineer seized petitioner's J.C.B. Tractor etc. which were being used for illegal excavation of the mines, the petitioner used criminal force and assaulted the non-petitioner and deterred the public servant from discharging his official duties. In the circumstances, therefore, it cannot be said that the order taking cognizance of the offence against the petitioner would result in serious miscarriage of justice.

The criminal miscellaneous petition is dismissed. The stay petition also stands dismissed.

(H.R. PANWAR), J.

mcs